

TRANSMITTAL LETTER			Case No. 3410/11
Serial No. 09/954,447	Filing Date September 14, 2001	Examiner Eugene H. Eickholt	Group Art Unit 2854
Inventor(s) Robert K. Ellis, II			
Title of Invention Methods and Materials for Producing an Image, and Articles Comprising Materials for Producing an Image			

TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is Transmittal Letter (in duplicate), Issue Fee Transmittal (in duplicate), Application for Patent Term Adjustment Under 37 CFR § 1.705(b) (in duplicate), Checks for \$995 and \$200, and Return Postcard.

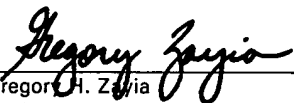
- ☒ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Petition for a \_\_\_\_\_ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra
Total		Minus		
Indep.		Minus		
First Presentation of Multiple Dep. Claim				

Small Entity		or	Other Than Small Entity	
Rate	Add'l Fee		Rate	Add'l Fee
x \$9 =			x \$18 =	
x 43 =			x \$86 =	
+ \$145 =			+ \$290 =	
Total add'l fee	\$		Total add'l fee	\$

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$ \_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- ☒ Checks in the amounts of \$995 and \$200 to cover the filing fees are enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

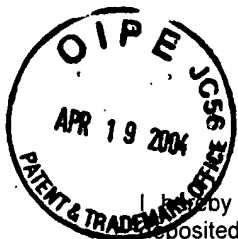
Respectfully submitted,

  
\_\_\_\_\_  
Gregory H. Zia  
Registration No. 48,059  
Agent for Applicant  
Customer No. 00757 - Brinks Hofer Gilson Lione

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 15, 2004.

Date: April 15, 2004 Signature: 



*ADAC*  
*(C)*  
*#*

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
on April 15, 2004

Date of Deposit

Gregory H. Zayia – Reg. No. 48,059

Name of applicant, assignee or  
Registered Representative

*Gregory Zayia*

Signature

*April 15, 2004*

Date of Signature

Our Case No. 3410/11

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Robert K. Ellis, II

Serial No. 09/954,447

Filing Date: September 14, 2001

For: Methods and Materials for  
Producing an Image, and Articles  
Comprising Materials for Producing  
an Image

Examiner Eugene H. Eickholt

Group Art Unit No. 2854

### APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

A Notice of Allowance for the above-identified patent application was mailed on January 20, 2004, and contains a determination of a patent term adjustment (hereafter, "PTA") under 35 U.S.C. § 154(b) of seventeen (17) days, as of the determination date (Exhibit A).

Applicants believe that the PTA indicated in the Notice of Allowance is incorrect, and that the correct PTA is forty-four (44) days for reasons explained below.

## REMARKS

The fee for filing an application for PTA set forth in 37 CFR § 1.18(e) is enclosed. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Application is attached.

In support of this application, and in accordance with 37 CFR § 1.705(b)(2), the undersigned agent attests to the following statement of facts. The dates identified below were determined based on the mailing date stamped on communications sent by the Office and by the date of receipt stamped on the post card receipts returned by the Office.

(i) A Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed on January 20, 2004, which indicates a PTA of seventeen (17) days (Exhibit A) as of the determination date. However, Applicant believes that this PTA is incorrect, and that the correct PTA to date is forty-four (44) days. The basis for this adjustment is under 37 CFR 1.702(a)(1).

(ii) The period of adjustment under 37 CFR §1.703(a) is the number of days in the period beginning on the day after that date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a) and ending on the date of mailing of an action under 35 U.S.C. § 132. The present application was filed on September 14, 2001. The date that is fourteen months after this filing date (hereafter, "the 14 month date") is November 14, 2002. The first Office Action under 35 U.S.C. § 132, a restriction requirement, was mailed on April 14, 2003. Thus, the difference between the 14 month date and the date of mailing of the first Office Action is 151 days, which accounts for all of the delay for which the Office is responsible to date.

(iii) The patent that will issue from the above-identified patent application is not subject to a terminal disclaimer.

(iv)(A) With respect to the grounds for adjustment set forth in 37 CFR § 1.704, an applicant is deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the

Office. Any such three-month period is measured from the date the notice or action was mailed to the applicant. The period of adjustment set forth in 37 C.F.R. § 1.703 shall be reduced by the number of days beginning on the day (hereafter, "the 3 month date") after the date that is three months after the date of mailing of the Office communication.

In the present application, a Notice to File Missing Parts was mailed on October 15, 2001. The 3-month date to respond to this communication was January 15, 2002. A Response to this communication was mailed, with a certificate of mailing, on February 13, 2002. The date-stamped return post card mailed back to Applicant indicates receipt by the Office on February 27, 2002 (Exhibit B). Accordingly, the first reduction in the period of adjustment of patent term under 37 CFR §1.704(b) is 43 days.

In addition, a non-final rejection against the present application was mailed on July 1, 2003. The 3-month date to respond to this Office Action was October 1, 2003. A Response to this non-final Office Action was mailed, with a certificate of mailing on December 1, 2003. The date-stamped return post card mailed back to Applicant indicates receipt by the Office on December 4, 2003 (Exhibit C). Accordingly, the second reduction in the period of adjustment of patent term under 37 CFR § 1704(b) is 64 days.

Thus, in accordance with 37 CFR § 1.704, the total period of time by which the period of adjustment of patent term should be reduced is 107 days (43 + 64).

#### Total patent term adjustment


In accordance with 37 CFR § 1.703(f), the total PTA to date for the above-identified patent application is the sum of the periods calculated under paragraphs (a) through (e) of 37 CFR § 1.703, currently 151 days, minus the sum of the periods calculated under 37 CFR § 1.704, which is 107 days. Thus, Applicant respectfully submits that the total PTA to date for the above-identified patent application is forty-four (44) days.

In view of the Remarks above, Applicant respectfully requests reconsideration of the PTA for the above-identified patent application. Office personnel reviewing this

application are invited to contact the undersigned agent directly at (312)-321-4257 if a discussion may help expedite reconsideration of the PTA.

Because the error in computation of the PTA for the above-identified patent application appears to stem from the USPTO, Applicant respectfully requests that the petition fee be waived.

Respectfully submitted,

  
\_\_\_\_\_  
Gregory M. Zayia  
Registration No. 48,059  
Agent for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
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# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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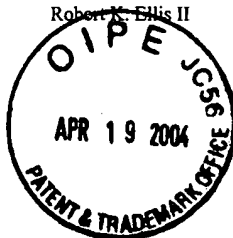
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,447	09/14/2001	Robert K. Ellis II	3410/11	6569

7590 01/20/2004

BRINKS HOFER GILSON & LIONE

P.O. Box 10395

Chicago, IL 60610



EXAMINER

EICKHOLT, EUGENE H

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 01/20/2004

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 17 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 17 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



Case No. 3410/11  
Applicant Robert K. Ellis II

Director of The United States Patent & Trademark Office  
Washington, D.C. 20231

Please acknowledge receipt of the below-identified:

Serial No: 09/954,447

Transmittal Letter (in duplicate), Notice to File Missing  
Nonprovisional Application Filing Date Granted, Response to Notice to  
File Missing Parts of Nonprovisional Application Filing Date Granted (in  
duplicate), Petition and Fee for Two (2) Month Extension of Time (in  
duplicate), Declaration, Power of Attorney, Checks for \$729 and \$200  
and Return Postcard.

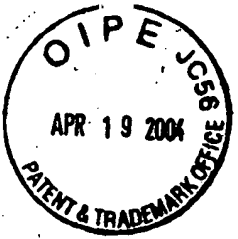
BRINKS HOFER GILSON & LIONE

By: Gregory H. Zayia - Reg. No. 48,059

Date of Mailing: February 13, 2002







Serial No. 09/954,447  
Applicant: ROBERT K. ELLIS, II  
Client/Matter No.: 3410-11

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Please acknowledge receipt of the below identified:  
Items Mailed: Transmittal Letter (in duplicate), Response, Petition and Fee  
for Two (2) Month Extension of Time (in duplicate), Checks for \$210 and \$86,  
and Return Postcard.

BRINKS HOFER GILSON & LIONE  
By: Gregory H. Zayia, Reg. No. 48,059  
Date of Mailing: December 1, 2003

